



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

CITY COUNCIL – WORK SESSION

Troutdale City Hall - Council Chambers
219 E. Historic Columbia River Hwy. (Lower Level, Rear Entrance)
Troutdale, OR 97060-2078

Tuesday, July 8, 2014

Immediately following the City Council Regular Meeting

Mayor

Doug Daoust

City Council

Norm Thomas

Glenn White

David Ripma

Rich Allen

Eric Anderson

John L. Wilson

City Manager

Craig Ward

City Attorney

David J. Ross

1. Roll Call

2. Discussion: Draft Chronic Nuisance Enforcement Ordinance.

Ed Trompke, City Attorney

3. Discussion: Relocating Council Meetings and Municipal Court to the Police Facility Community Room, or Court to the City Conference Building.

Mayor Daoust

4. Adjourn

Doug Daoust, Mayor

Dated: 7/1/14

Further information and copies of agenda packets are available at: Troutdale City Hall, 219 E. Historic Columbia River Hwy., Monday through Friday, 8:00 a.m. - 5:00 p.m.; on our Web Page www.troutdaleoregon.gov or call Debbie Stickney, City Recorder at 503-674-7237.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to: Debbie Stickney, City Recorder 503-674-7237.





CITY OF TROUTDALE



STAFF REPORT

SUBJECT / ISSUE: Nuisance code

MEETING TYPE:
City Council Work Session

MEETING DATE: July 8, 2014

STAFF MEMBER: Ed Trompke, Attorney
DEPARTMENT: Executive

ACTION REQUIRED
Information/Discussion

**ADVISORY COMMITTEE/COMMISSION
RECOMMENDATION:**
Not Applicable

PUBLIC HEARING
No

Comments:

STAFF RECOMMENDATION:

EXHIBITS:

A. Draft of nuisance code revisions

Subject / Issue Relates To:

☐ Council Goals

☐ Legislative

☐ Other (describe)

Issue / Council Decision & Discussion Points:

- ◆ Updates and revisions to existing nuisance code
- ◆ Addressing chronic nuisance properties

Reviewed and Approved by City Manager:

BACKGROUND: The City requested the city attorney's office review the existing nuisance code in Troutdale Municipal Code Chapter 8.28. The proposed revisions in Exhibit A clarify definitions, allow the City to take action against persons responsible for the nuisance rather than simply the property owner, give the City greater flexibility in an emergency, and give the City greater flexibility in evaluating requests for waivers of penalties.

Additionally, the City expressed interest in options for dealing with chronic nuisance properties, including properties involving frequent criminal activities. The city attorney's office reviewed the chronic nuisance code provisions from the Cities of Portland and Gresham. Both cities have a process through which the city may take action to "close" the property for a period of 6-12 months after repeated violations at that location. To close a property based on repeated criminal activities, Portland requires 3 or more criminal nuisance activities during any 30 day period. Gresham defines a chronic nuisance as 3 or more criminal nuisance activities during any 120 day period. The closure process is similar to obtaining a temporary restraining order and is done in circuit court.

In addition to the legal remedies in Gresham's code, the city also requires a Chronic Nuisance Abatement Plan (CNAP), which is a plan submitted by the property owner or the person in charge that includes actions to abate, correct, or eliminate the occurrence of chronic nuisance activities on or around the property. A CNAP may include actions to remedy code violations, eviction of problem tenants, or hiring security guards to monitor the property. Failure to submit a CNAP that is approved by the city or failing to implement an approved CNAP within the time stated are grounds for enforcement action by the city, including legal proceedings to seek closure of the property. Once the property is closed in a judicial proceeding, the city is responsible for securing the property. The city may be entitled to recover its costs in such a proceeding, including the costs of physically securing the property. The property owner may also be required to pay reasonable relocation costs if the closure of the property evicts a tenant in the property.

PROS & CONS:

Pros:

- Would provide another tool for the City to use in dealing with chronic nuisance properties
- May provide stronger incentive for chronic nuisance properties to come into compliance than financial remedies which currently exist in code

Cons

- Would require additional involvement and monitoring by City staff
- Judicial proceeding required in circuit court
- Some properties may pose serious health risks (ex. meth labs) that the City would have to address, rather than secure the property and leave it

Current Year Budget Impacts ☐ Yes *(describe)* ☐ N/A

Future Fiscal Impacts: ☐ Yes *(describe)* ☐ N/A

City Attorney Approved N/A ☐ Yes

Community Involvement Process: ☐ Yes *(describe)* ☒ N/A

Chapter 8.28 NUISANCES

8.28.010 Title.

This chapter shall be known as "The City of Troutdale Nuisance Control Ordinance," and may be so pleaded and referred to ~~and shall apply within the jurisdictional limits of the city.~~

(Ord. 352-O § 2 (7.30.005), 1981)

8.28.020 Definitions.

As used in this chapter, unless the context requires otherwise:

"Abandoned vehicle" means any vehicle which reasonably appears to be inoperative, wrecked, discarded, displays expired vehicle registration plates or tags, has no vehicle registration plates or tags displayed, or is totally or partially dismantled.

"Manager" means the city manager or the city manager's authorized representative.

"Camp" means to live, cook, sleep, or take overnight shelter in a motorized vehicle, temporary, or non-permanent structure or location, including but not limited to a shack, lean-to, storage shed, tent, travel trailer, recreational vehicle, boat, utility trailer or vehicle of any kind.

"Council" means a common council of the city.

"Emergency" means any situation in which the city manager determines imminently endangers human life, health, or property.

"Explosive" means a chemical compound, mixture or device that is used or intended to be used for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined by state law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

"Garbage" means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

"Hearings officer" means that person appointed by the council to preside at hearings held pursuant to this chapter.

"Intersection" means the area embraced within the prolongation or connection of the lateral curblines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

"Liquid waste" means waste oil, septic tank pumping, liquid industrial wastes or other similar material.

"Nuisance" means any unsafe, annoying, unpleasant or obnoxious condition or practice causing or capable of causing an unreasonable threat to the public health, safety and welfare in the circumstances, but does not include noise; provided, however, that anything defined as a nuisance in Section 8.28.070 of this chapter shall be a nuisance.

"Owner" means any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

"Person" means any natural person, association, trust, partnership, firm or corporation.

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

"Person in charge of property" means an agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of the property or the supervision of a construction project on the property.

"Person responsible" means:

1. The owner or person in charge of property on which the nuisance exists or which abuts a public way where a nuisance exists; or

2. The person who causes the nuisance to come into or continue in existence.

"Personal property" means any tangible item including, but not limited to, vehicles, trailers, boats, recreational equipment, structures, carts, tables, racks, and similar items. Personal property shall not include trash or recycling containers placed in the public right-of-way for pick up.

"Right-of-way" means a public or private area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, streets, sidewalks, bike paths, alleys and walkways. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and under the control of a public agency.

"Radioactive substance" means a substance which omits radiation in the form of gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons or other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infrared light or ultra-violet light.

"Rodent" means a mouse or rat.

"Rubbish" means glass, metal, paper, wood, plastics or other nonputrescible solid waste.

"Sewage sludge" means residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

"Sidewalk" means that portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

"Solid waste" means all putrescible and nonputrescible wastes, whether in solid or liquid form, except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals and other discarded solid materials.

"Vector" means any insect organism, including but not limited to flies, fleas, lice, ticks, fly maggots and mosquito larvae, capable of bearing or carrying a disease transmittable to human beings.

"Vehicle" means any device which is designed or used for transporting people, goods or property, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 729 § 1 (part), 2003; Ord. 696 § 1, 2000; Ord. 352-O § 2 (7.30.010), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.030 Purpose.

The council has determined it necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety and welfare of the people of the city and this chapter shall be liberally construed to effectuate that purpose.

(Ord. 352-O § 2 (7.30.015), 1981)

8.28.040 Administration—Enforcement.

- A. The manager shall be responsible for the administration and enforcement of this chapter.
- B. The manager shall have authority to administer oaths, certify all official acts, issue citations, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearing officer and take testimony of any person by deposition.

(Ord. 352-O § 2 (7.30.020), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.050 Administration—Rules and regulations.

The manager may adopt rules necessary for the administration and enforcement of this chapter.

(Ord. 352-O § 2 (7.30.025), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.060 Notice procedure.

- A. Notices of violations shall be provided in writing.
- B. Notice of violation ~~provided in accordance with Section 8.28.090 of this chapter may~~ shall be placed at the location of the violation or personally delivered or mailed to the property owner ~~person responsible, property manager, and/or the tenant. If mailed, the notice may~~ shall be sent by regular postpaid certified or registered mail, return receipt requested or signature confirmation mail.
- C. ~~Notice of a violation provided in accordance with Section 8.28.095 of this chapter may be affixed to the property or personally delivered or mailed to the property owner. If mailed, it shall be mailed certified or registered mail, return receipt requested, or signature confirmation.~~
- DC. Summons, citations, and notices of city abatement, liens and penalties shall be mailed certified or registered mail, return receipt requested, or signature confirmation, or personally delivered to the ~~property owner~~ person responsible.
- ED. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 711 § 1, 2001; Ord. 352-O § 2 (7.30.030), 1981)

(Ord. No. 797, § 1, 7-14-2009)

8.28.070 Specific nuisances prohibited.

- A. It is unlawful for any person to maintain or allow to exist the following things, practices or conditions on any property, including unoccupied structures, or within public road rights-of-way adjacent to that property, which shall be nuisances:
 - 1. A pond or pool of stagnant water which emits an obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety and welfare;
 - 2. An animal carcass not buried or destroyed within twenty-four hours after death;
 - 3. Accumulation, collection or storage of solid waste without prior approval of the manager, unless the person is licensed by lawful authority to operate a business specifically for those purposes;
 - 4. A well, septic system or cesspool that has not been safely or securely sealed or properly maintained and which may cause or has caused an injury to any person or contamination of a potable water supply;

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

5. An abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside;
6. Any property, whether vacant or improved building, residence, structure or accumulation of any materials which may attract or harbor vectors or rodents;
7. Any explosive or radioactive substance, unless the possession is authorized by law;
8. Any accumulation of dirt, sand, gravel, pieces or chunks of concrete or other similar inorganic material, which is unsightly and reduces the aesthetic appearance of the neighborhood;
9. An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of six inches or more without reasonable safeguards or barriers to prevent them from being accessible to children and domestic animals;
10. Dead or decaying trees and tree limbs that present a safety hazard to the public or to abutting property owners;
11. Any abandoned vehicle upon private or public property;
12. Any vehicle or personal property parked or stored in such a way as to obstruct the flow of traffic on a public right-of-way or the movement of pedestrians on a public sidewalk;
13. Any vehicle or personal property located on a public right-of-way, a sidewalk or on public property for more than seventy-two consecutive hours, provided that any basketball stand that does not interfere with the flow of traffic or pedestrians, or create a substantial safety hazard, may be located in the right-of-way for more than seventy-two hours;
14. Signs, hedges, shrubbery, natural growth or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles;
15. Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil or solid waste;
16. Excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property;
17. Signs placed illegally within the public right-of-way;
18. Uncontrolled or uncultivated growth of weeds, brush, poison oak, poison ivy, tansy ragwort or grasses ~~over fourteen inches in height which~~that offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute a fire hazard, or unreasonably interfere with the use and enjoyment of abutting public or private property, or that have grown to 14 or more inches in height. Except, uncontrolled or uncultivated growth on public land specifically for the purpose of providing native wildlife habitat shall not constitute a nuisance;
19. Vehicle storage and repair in violation of Section 8.28.075 of this chapter;
20. Maintaining an occupied travel trailer, motor home, camper, or vehicle or trailer modified for sleeping at any location other than a recreational vehicle park licensed under the provisions of the state, except as follows: vacation trailers and motor homes may be used by visitors of the residents, and shall be allowed on the residents' lot for a period of time not to exceed fourteen days in any consecutive six-month period;
21. Connection of any electric, water, sewer, gas, or telephone line from any source to a motor home, travel trailer, camper or utility trailer if any portion of such line between the connection at the termination and the point of connection at the source extends over, across, or under any public street, sidewalk, alley, or other public right-of-way or portion thereof;
22. Placement in a public right-of-way or on a public sidewalk of a newsstand, dispensing machine or any similar device intended for dispensing materials, including, but not limited to, newspapers, magazines, and advertising publications;

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

23. For any person to camp or sleep in or upon any public highway, street, alley, public park, parking lot, or other public place; or to camp or sleep in any barn, shed, shop, warehouse, railroad car, automobile, vessel, or place other than such as is kept for lodging purposes, without the written permission of the owner or party entitled to possession thereof, and in no event for more than twenty-four hours, except as provided in Section 8.28.070(20) of this chapter. B. The enumeration of nuisances in subsection A of this section shall not limit the power of the manager to investigate or declare any other condition a nuisance which is within the scope of the term "Nuisance" appearing in Section 8.28.020(4) of this chapter.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 729 § 1 (part), 2003; Ord. 674 § 2, 1999; Ord. 649 § 1 Exh. A (part), 1997; Ord. 575-O, 1992; Ord. 454-O (part), 1985; Ord. 352-O § 2 (7.30.035), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011; Ord. No. 818, Att. B, 4-9-2013)

8.28.075 Vehicle storage and repair.

Every person shall maintain the following things, practices or conditions on any property unless the practice or condition occurs as part of a lawfully established nonconforming use, or nonconforming development pursuant to the Troutdale Development Code.

- A. All new driveways must be constructed with concrete, asphalt or comparable hard surface, or as otherwise allowed by the Troutdale Development Code. "Driveway" means the private vehicular drive that connects an off-street parking area, garage, carport or other building used for parking or storing a vehicle with the street.
- B. Parking areas, other than driveways, must be surfaced with concrete, asphalt or not less than six inches of one inch minus or greater crushed stone. "Parking area" means any portion of the property, other than the driveway, that is used to park motorized or nonmotorized vehicles.
- C. No motor vehicle shall be parked upon any grass or exposed soil surface.
- D. Within residential neighborhoods, no commercial vehicle which exceeds eight thousand pounds gross weight, twenty-one feet in length or eight feet in height shall be parked in the street unless it is a vehicle that is routinely on standby and necessary to use under emergency circumstances. Semi-trailers are prohibited.
- E. Within residential neighborhoods, service, repair or storage of vehicles not owned and properly registered with the state of Oregon to a resident of the site is prohibited. A vehicle registered to a resident of the site may be serviced and repaired under the following conditions:
 - 1. The service and repair, if not conducted in a completely enclosed building, must be minor in nature. Minor service and repair includes tune-ups, replacement and servicing of oil and other fluids, and replacement and adjustment of minor parts such as tires, hoses, belts, filters, fuses, and similar items. Minor repair does not include: body and fender repair and replacement; painting; engine or transmission removal or replacement; or any work using welders, torches, or air-driven power tools; and
 - 2. All work not classified as minor in nature must occur inside a completely enclosed building.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 749 §§ 1, 2, 2004; Ord. 729 § 1 (part), 2003; Ord. 674 § 3, 1999)

8.28.080 Routine and emergency inspections—Authority.

- A. The manager may enter any property or building at any reasonable time for the purpose of inspection or enforcing this chapter. Except when an emergency exists, the manager shall obtain the consent of the owner or a warrant from the municipal court or other court of competent jurisdiction before entering private property or a private building.

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

- B. As used in this section and Sections 8.28.090 and 8.28.100 of this chapter, an "emergency" exists when the manager has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety and welfare.

(Ord. 352-O § 2 (7.30.040(A) and (B)), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.090 Abatement—General procedures.

- A. An investigation may be conducted whenever the manager ~~receives a complaint~~has reasonable cause to believe that a nuisance exists.
- B. ~~Whenever it appears to the manager that there is~~has reasonable cause to believe that a nuisance exists, the manager shall provide written notice to the ~~owner~~person responsible of the existence of the nuisance provided, however, only one notice for a particular type of nuisance will be provided to the same ~~owner~~person within a twelve-month period. Repeat nuisance violations as to a single person or property address are subject to immediate abatement in accordance with Section 8.28.095 of this chapter or city abatement in accordance with Section 8.28.140 of this chapter.
- C. ~~Except for nuisances that are subject to immediate abatement in accordance with Section 8.28.095 of this chapter, emergency abatement in accordance with Section 8.28.100 of this chapter, or city abatement in accordance with Section 8.28.140 of this chapter, notice of the nuisance shall demand abatement within ten (10) days from the date of the written notice, or such lesser time as may be set by the manager to protect the public health, safety and welfare.~~
- D. The notice of a nuisance that is not subject to immediate abatement under Section 8.28.095 of this chapter, emergency abatement under Section 8.28.100 of this chapter or city abatement under Section 8.28.140 of this chapter shall contain:
1. A description of the real property by street address or otherwise on which the nuisance exists;
 2. A description of the nature of the nuisance;
 3. The action necessary to abate the nuisance;
 4. ~~The time within which the nuisance must be abated~~ A statement that the nuisance must be abated within ten (10) days from the date of notice;
 5. A statement that unless the nuisance is abated within ten (10) days from the date of written notice, the city may abate the nuisance and the cost of abatement shall ~~be~~be charged to the person responsible and may become a lien against the property;
 6. ~~A statement that failure to abate a nuisance may result in court prosecution and/or the city may file charges against the owner~~ person responsible in Troutdale municipal court;
 67. A statement that notwithstanding the city's abatement authority pursuant to Section 8.28.140 of this chapter, if the nuisance is not abated within ten (10) days from the date of the written notice, enforcement penalties for noncompliance in accordance with Section 8.28.130(B) of this chapter ~~will~~may be imposed;
 78. A statement that the ~~owner~~person responsible may request a hearing to contest whether a nuisance exists or to contest the imposition of any enforcement penalty by writing to the manager within seven (7) days of the date of the notice.
- E. ~~The notice of a nuisance that is subject to immediate abatement under Section 8.28.095 of this chapter shall contain:~~
1. ~~The information in subsections (D)(1) through (D)(5) of this section;~~
 2. ~~A statement that the nuisance shall be abated immediately, which means as soon as possible and no later than seventy-two hours after the notice of the nuisance was affixed to the property or personally delivered or mailed to the owner;~~

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

- ~~3. A statement that if the nuisance is not abated within seventy-two hours of the date the notice of the violation was affixed to the property or mailed to the owner, the city may abate the nuisance in accordance with Section 8.28.140 of this chapter;~~
- ~~4. A statement that notwithstanding the city abatement authority pursuant to Section 8.28.140 of this chapter, if the nuisance is not abated within seventy-two hours, enforcement penalties for noncompliance in accordance with Section 8.28.130(B) of this chapter will be imposed;~~
- ~~5. A statement that the owner may request a hearing to contest the finding of a nuisance, provided that the hearing will occur after the nuisance has been abated. 8.28.090.~~

~~FE.~~ The notice shall be provided in accordance with Section 8.28.060 of this chapter.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 678 § 1, 1999; Ord. 649 § 1 Exh. A (part), 1997; Ord. 352-O § 2 (7.30.040(C) and (D)), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.095 Abatement—Immediate situations.

~~Nuisances that exist due to violations of Sections 8.28.070(A)(12), (A)(13), (A)(24) and (A)(25) and 8.28.075(D) of this chapter and repeat nuisance violations by the same owner within a twelve-month period shall be abated immediately, which means as soon as possible and no later than seventy-two hours after notice of the nuisance is affixed to the property or personally delivered or mailed to the owner.~~

~~(Ord. 768 § 2 Att. A (part), 2005)~~

~~(Ord. No. 797, § 1, 7-14-2009)~~

8.28.100 Abatement—Emergency situations.

- ~~A. In an emergency, the manager may order immediate abatement of a nuisance or shall proceed to summarily abate the nuisance. The manager shall give notice of the requirement for immediate abatement to the ownerperson responsible.~~
- ~~B. The cost of summary abatement may be assessed as provided in Section 8.28.140.~~
- ~~C. Even when a nuisance is abated under this section, a person responsible may also be prosecuted for violating this chapter or other remedies may also be sought against a person responsible.~~
- ~~B. In an emergency, and in lieu of action under subsection A of this section, the manager may proceed with immediate abatement of the nuisance. The manager shall then immediately send written notice of abatement to the owner of the property.~~

~~(Ord. 352-O § 2 (7.30.040(E) and (F)), 1981)~~

~~(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)~~

8.28.110 Appeal and hearing procedures—General requirements.

- ~~A. Any person receiving a notice under Sections 8.28.090, 8.28.130(B) or 8.28.100 of this chapter, may request a hearing by writing the manager within seven (7) days of the date of the notice. A hearing request does not stay the requirement to immediately abate a nuisance in accordance with Sections 8.28.095 and 8.28.100 of this chapter.~~
- ~~B. The manager shall, upon receipt of a request for a hearing, promptly notify the hearings officer who shall set a time and place for the hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.~~

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

- C. The person requesting the hearing and the manager may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues. Any person may be represented by counsel.
- D. If requested by either party, all hearings shall be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing shall be retained by the hearings officer for a period of two (2) years.
- E. Failure of the persons requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.
- F. After the hearing, the hearings officer shall issue and mail a copy of the order determining the question within fifteen (15) days from the date of the hearing, or any continuance thereof not to exceed fifteen (15) days from the date of the hearing, to the person requesting the hearing and the manager.
- G. If the hearings officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner-person responsible or affirm the abatement was proper if the nuisance has already been abated.
- H. If the hearings officer determines that anything personal property removed under Section 8.28.100(B) ~~or 8.28.095~~ of this chapter no longer constitutes a nuisance or can be released upon such condition as the hearings officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage.
- I. If the hearings officer determines that there was a wrongful abatement under Section ~~8.28.095 or~~ 8.28.100(B) of this chapter, the hearings officer may order the manager to make reasonable restitution.

(Ord. 768 § 1 Att. A (part), 2005; Ord. 678 § 2, 1999; Ord. 454-O (part), 1985; Ord. 352-O § 2 (7.30.050), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.120 Appeal and hearing procedures—Review of decision.

Review of any action of the hearings officer taken under this chapter and the rules adopted under them shall be taken solely and exclusively by writ of review in the manner set forth in Oregon Revised Statutes Sections 34.010 through 34.100.

(Ord. 352-O § 2 (7.30.055), 1981)

8.28.130 Abatement by ~~owner-person responsible~~—Required.

- A. Within ten (10) days after the service of the notice as provided in Section 8.28.090, a person responsible shall remove the nuisance or show that no nuisance exists.
- B. Failure of the ~~owner-person responsible~~ to abate the nuisance within ten (10) days as provided by Section 8.28.090(B) of this chapter, or within seventy-two hours as provided by Section 8.28.095 of this chapter, or within the time set by the hearings officer under Section 8.28.110 of this chapter, shall be a violation of this chapter.
- BC. If a nuisance is not abated within ten (10) days of the initial written notice for abatement, as provided in Section 8.28.090 of this chapter, unless a request for a hearing is made under Section 8.28.110 of this chapter ~~or if a nuisance is not abated within seventy-two hours as provided in Section 8.28.095 of this chapter, or if a nuisance is not abated within the time set by the hearings officer under Section 8.28.110 of this chapter,~~ the manager shall may impose enforcement penalties for noncompliance in accordance with the adopted fee schedule. The manager shall provide notice of the imposition of any enforcement penalty to the owner-person responsible. Enforcement penalties are separate from any penalties imposed under Section 8.28.200 of this chapter.

EXHIBIT A: PROPOSED CHANGES TO Chapter 8.28--Nuisances

(Ord. 768 § 1 Att. A (part), 2005; Ord. 678 § 3, 1999; Ord. 678 § 3, 1999; Ord. 352-O § 2 (7.30.060), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.140 Abatement by city—Assessments.

If an owner fails to abate a nuisance within the time allowed as required under this chapter, the manager may cause abatement of the nuisance and/or file charges against the owner in Troutdale municipal court or a state court with jurisdiction over this section. If the city abates the nuisance, an accurate record of the abatement costs shall be kept and shall include a surcharge of twenty-five percent (25%) of the cost of the abatement for administrative overhead. A billing for the amount of the costs, and notice that those costs may be imposed as a lien on the property should payment not be timely received, shall be forwarded by certified or registered mail, return receipt requested, to the owner person responsible. Payment shall be due to the city within fifteen (15) days from the date of the billing.

(Ord. 696 §2, 2000; Ord. 649 § 1 Exh. A (part), 1997; Ord. 352-O § 2 (7.30.065(A)), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.150 Waiver of assessments—ConditionsAbatement procedures—Joint responsibility.

If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

The cost of abating a nuisance or the cost of any enforcement penalty imposed by the manager may be waived for low income, elderly or disabled persons, if upon timely application under Section 8.28.160 of this chapter it appears to the manager that the following conditions are met:

- A. The owner is disabled or over sixty-five years of age, and, if single, had an income during the preceding calendar year from all sources of less than three thousand six hundred dollars, or, if the head of a family had an income during the preceding calendar year from all sources of less than five thousand four hundred dollars; and
- B. The owner is living on the property from which the nuisance is to be abated.

(Ord. 678 § 4, 1999; Ord. 352-O § 2 (7.30.065(B)), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.160 Waiver of assessments—Application procedures.

Application for waiver of nuisance abatement costs or for waiver of enforcement penalties shall be filed with the manager, in writing, within ten (10) days from the date of notice of the amount of cost of abatement or within ten (10) days of the date of the notice of the imposition of the enforcement penalty. The manager may require the owner person responsible to supply additional information as present evidence that the applicant qualifies should be entitled to for a waiver. under the provisions of Section 8.28.150. An application for waiver of nuisance assessment costs or enforcement penalties must be submitted for each cost of abatement notice or each enforcement penalty notice sent to the applicant.

(Ord. 678 § 5, 1999; Ord. 352-O § 2 (7.30.065(C)), 1981)

(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

8.28.170 Liens against property.

- A. The manager shall may file a lien against the property if payment is not made as provided in Section 8.28.140 of this chapter or waived under Section 8.28.150-160 of this chapter.
- B. The lien provided for in subsection A of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of the property.
- C. The lien shall be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to ORS 223.650 or otherwise provided by law. ~~The lien provided for in subsection A of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.~~
- D. An error in the name of the owner shall not void the lien, nor shall a failure to receive the notice render the lien void, but it shall remain a valid lien against the property.
(Ord. 696 § 3, 2000; Ord. 352-O § 2 (7.30.065(D), (E), (F)), 1981)
(Ord. No. 797, § 1, 7-14-2009; Ord. No. 801, § 1, 1-11-2011)

~~8.28.180 Summary abatement.~~

~~The chief of police may proceed summarily to abate a nuisance which poses imminent danger to human life or property.~~

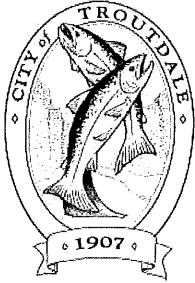
~~(Ord. 352-O § 2 (7.30.070), 1981)~~

8.28.190 Violation—Each day deemed separate offense.

- A. Violation of any provision within this chapter constitutes an offense punishable with a fine.
- B. Each day's violation of a provision of this chapter constitutes a separate offense.
- C. The abatement of a nuisance is not a penalty for violation this chapter, but is an additional remedy. The imposition of a penalty shall not relieve a person of the duty to abate a nuisance.
(Ord. 352-O § 2 (7.30.075), 1981)

8.28.200 Violation—Penalty.

- A. Any owner or person who is convicted of a violation of this chapter shall be fined not more than one thousand dollars (\$1,000). The penalties set forth in this section are in addition to and not in lieu of civil remedies.
- B. Any person convicted two times in twelve (12) consecutive months for the same violation of this chapter shall be considered on the third ~~offense~~ violation a "habitual offender" and shall be fined no less than one thousand dollars (\$1,000) on the third and every subsequent conviction.
(Ord. 729 § 1 (part), 2003; Ord. 352-O § 2 (7.30.080), 1981)



CITY OF TROUTDALE

MEMORANDUM

TO: Mayor and City Council

FROM: Craig Ward, City Manager

DATE: June 12, 2014

RE: Relocating Council and Municipal Court Meetings to the Police Facility Community Room, or Court to the City Conference Building

I asked staff to consider issues associated with moving either or both the Chambers and Municipal Court to either the Police Community Room (PCR), or the Court only to the City Conference Building (CCB). The following summarizes my findings of the principal considerations:

1. Saving money by not renting the downstairs (217 E. Historic Columbia River Hwy): Currently our lease for City Hall assumes the rental of both upstairs and downstairs. I spoke with Sue O'Halloran (the rental agent for Max Maydew), and the two spaces are considered one building, which he is very reluctant to separate. Our current lease is for another year, and we could propose different terms should we renegotiate next year, but it does not appear prudent to anticipate any savings from not using the lower level.
2. Cameras & AV: East Metro Media (EMM) is prepared to move the existing cameras and recording/transmitting equipment to the PCR at no charge, though we do not yet know when that could occur. We are not yet sure where the recording booth (where the EMM staff physically sits) would go. There is a storage room in the PCR, but Scott tells me it is fully utilized for storing the tables, chairs and mats. We might be able to put it in the CCB next door, but that hasn't yet been confirmed or priced. In addition, the audio-visual setup in the PCR is awkward for Council meetings and should thus be revised, at an unknown cost.
3. Planning Commission: If we move the cameras permanently, that means that Planning Commission meeting should also be relocated to the PCR, or we will have to leave the current system in the current Chambers and purchase new cameras and control equipment in the PCR. Alternatively, we could stop televising PC meetings, which may be a viable option.
4. Setup/teardown: Since the Police use the PCR room for training, setup and teardown will have to occur before and after each meeting, which takes a considerable effort just for the microphones, not to mention the tables and chairs. I asked EMM whether we could use wireless microphones and they responded that *"The idea of using wireless microphones is untenable as each microphone would need a transmitter of a different frequency so as not to interfere with each other. You would also need a receiver for each mic. The reliability of that type of system would be spotty at best because of radio frequency interference and the*

constant need for battery replacement. The current microphones with the switches on them would not work with any wireless system.” Considering that Court meets on Mondays, staff would have to set up the room either early on Monday or late on Friday, and tear it down immediately afterward; potentially requiring overtime. Admittedly, that is only once per month. However, when you add Council and Planning Commission meetings we will have at least one meeting per week. The estimated average time for setup and teardown is two hours per meeting. Setup and teardown won’t always require overtime, but will be a regular drain on Facilities, the Recorder and the Court Clerk just for setup and tear down; not to mention transporting files, recorders, etc.

5. Copy Machine: Access to the Police copy machine is behind secured doors, which could be a logistical and/or security challenge. Currently the Recorder (or Planners) simply run upstairs to City Hall, but that won’t be as practical at the PCR.
6. Customer Service & Staff Morale: Customer service for Court is a particular problem because people frequently pay their fines immediately after court, as well as stop in at City Hall before and after Court to ask questions and get direction for Court operations. Since the Cashier processes fine payments, we will have a regular shuffle of customers going back and forth to City Hall. Perhaps, if we can’t get out the lease of the City Hall lower level, we might consider just operating Court there. I realize that would frustrate the businesses who don’t like court customers, but I have been specifically asked to let you know that moving Chambers and Court to the PCR will have both customer service and staff moral impacts. We might be able to move the Cashier one day a month to the PCR, but that would only solve the immediate payment problem and not the Q&A inefficiency.
7. Planning & Building: If we can’t get out the lease of the downstairs but move the Chambers and the Court to the PCR, we could move Planning and Building downstairs, which has some advantages (occasionally their customers have to run to City Hall to make cash Planning and Building payments to the Cashier, though we let them make credit card and check payments now at the remote location). It wouldn’t save us any money, of course, but the Parks staff would be happy to get their old digs back, and the inefficiencies caused by having the Planning & Building staff so remote from City administration would be improved.
8. Security: Currently public access to the PCR is limited. The lobby and doors to the PCR foyer are out of direct sight, so they are almost impossible to monitor. The doors lock after business hours, so we will undoubtedly have instances where the doors are locked despite a public meeting occurring, and staff will have to trudge out to let people in if we hear them knocking, or the public meeting act will be violated. Currently the Police let us in and lock up after each meeting there, but we will have to find a better way if we meet there once a week. We would probably have to issue building keys to Debbie, Sarah, Paula, and Planning staff for a start (I already have one), as well as others once the pattern becomes established and other groups also ask to meet there regularly.
9. Jury Room & Judge: While it only happens a few times a year, there is no jury room in the PCR. If the PCR was the Courtroom, I expect we would use the CCB for Jury deliberations. The current situation is also not ideal either (we use the 321 Conference Room that is not ADA compliant). Likewise, there is also no judge’s chambers in the Police facility (or City Hall), though the vacant Attorney office is potentially available.

These just remind us why we need a new City Hall.

A more detailed list of advantages and disadvantages of relocating the Chamber or the Court to either the PCR or CCB is provided below.

Advantages of PCR for Chambers and Court:

1. The room is larger and more comfortable for the Council and citizens:
 - The current Chambers/Court room is 20.5' x 40' = 820 sqft
 - The PCR is 22.5' x 43' = 967sqft
2. Good parking is available, including handicap spaces.
3. Area security is improved due to Police proximity surroundings – including LEDS info.
4. The bus stop on Buxton is adjacent to the entrance.
5. Traffic noise on Buxton is less disruptive than the passing train.
6. More public restroom capacity is available.

Disadvantages of PCR for Chambers and Court:

1. Assurances to the public that the structure would not be used as a City Hall is problematic.
2. Equipment (chairs, tables, microphones) may not be able to be left out permanently as this room's primary purpose was for police training. Permanently installing the equipment would be a cost for the electrical wiring (unknown at this time).
3. No designated room for the Metro East Community Media folks and their equipment (unless wiring was punched through to the CCB as was discussed early on in the construction of the Police Facility).
4. TV Cameras may need to be purchased. We could relocate the ones in the current Chambers, but only if the intent is to also move Planning Commission (PC) meetings to the PCR. This would tie up the room on the 3rd Wed. of each month, and sometimes the 4th Wednesday). EMM estimates that the cost of new cameras and control equipment to be approximately \$60k.
5. Ceiling mounted projector and screen are not in a location that is desirable for presentations at Council/PC meetings. Options: 1) Install a second screen and ceiling mounted projector for presentations at council meetings; 2) move the existing screen and ceiling mounted projector (probably not what the Police would want done); 3) use the existing screen and projector where they are and instead have Council dais along the north wall – this would allow the Council/PC and audience to be able to see the presentation and the Council/PC wouldn't have their backs to the audience; 4) alternatively, a portable screen and projector could be set up and taken down for each meeting. The proposed cost for these for the initial construction of the PCR was between \$5,000 and \$10,000 dependent on the cost of additional conduit, wiring and installation cost.
6. Set-up and tear down before and after meeting is not an efficient use of staff time. (tables, chairs, all equipment).
7. Transporting items back and forth between buildings (extra packets and agendas, recorder, extension cords, sign-in sheets, pens, cups, water, etc.) will take considerable staff time, and will be a particular challenge during bad weather.
8. No separate room for Council to hold executive sessions in, or to eat dinner in on work session nights.
9. No copier is available for staff to use during a meeting if additional copies were needed.
10. Security is problematic as lobby doors would need to be unlocked during public meetings, so anyone can enter the building. While occupying the PCR there is no way to see who is in the lobby; some will be there for police business (like the guy who pulled the handle off of the door to come and get his possessions that were taken from him earlier when he was arrested). After-hours access to public meetings is also problematic.

11. The hand dryers in the restrooms is noisy and distracting, particularly for recordings.
12. No cashier is available for Court payments, necessitating inconvenient customer transit to City Hall.
13. Moving will require notifications of address changes for citations, signage and correspondence, and the addresses for court offices will differ from courtroom for payments and court contact.
14. PCR would not be unavailable for Police training or EOC on Mondays for Court (or Tuesdays following a Monday Holiday), or whenever Council/PC meetings occur.
15. The PCR was designed to be used as an Emergency Operation Center (EOC) for any long term weather or natural disaster. If occupied for such an event, public meetings and court would be displaced.
16. Additional expense to provide panic buttons.
17. Additional foot traffic in the records lobby and inquiries at the counter may cause Police records staff more work flow interruptions.
18. Land use considerations may arise, particularly for parking.

Advantages of CCB for Court:

1. The central meeting space is flexible and large enough.
2. The small conference room is available to stage & sequester the jury.
3. Reduces but does not resolve the concern of the downtown merchants of having court in the downtown area – court clients will still be coming to City Hall to ask for directions to court, to make payments and to speak to the court clerk. It will however address the larger group of folks lingering in the back side of downtown businesses waiting for court to start.
4. The bus stop on Buxton is adjacent to the entrance.
5. Traffic noise on Buxton is less disruptive than the passing train.

Disadvantages of CCB for Court:

1. HVAC is inadequate.
2. Restrooms are not ADA-compliant without significant improvements
3. No physical security.
4. Parking lot pavement needs repair.
5. Limited parking.
6. A secured location is required to lock up tickets between court sessions (LEDS, requires anyone in the building who could have access to LEDS info. to be fingerprinted).
7. Set-up for court sessions will require staff time.
8. May require additional wiring for internet access for a computer (so cases can be looked up if needed), but there is already internet service in the building.
9. No court records access; all files will be at City Hall.
10. No cashier is available.
11. Moving will require notifications of address changes for citations, signage and correspondence, and the addresses for court offices will differ from courtroom for payments and court contact.
12. CCB activities would be displaced for Court on Mondays, or Tuesdays following a Monday Holiday.
13. Transporting court documents and forms to and from City Hall will be a continual drain on staff and particularly inconvenient during bad weather.
14. Additional expense to provide personal security - panic button.

15. Additional expense to provide telephone jacks/speaker phone for trials, etc.
16. Mixing Court and Recreation clientele diminishes sense of security for recreation clients.